THE HON'BLE MR JUSTICE K.C. BHANU

-

WRIT PETITION NO: 18729 of 2005

Dt.19-09-2005

-

-

Between:

Kalali Ramulu S/o Sangaiah.

…Petitioner

-

and

The Prohibition & Excise Superintendent,

Medak District, at Sangareddy.

…Respondent

THE HON'BLE MR JUSTICE K.C. BHANU

-

WRIT PETITION NO: 18729 of 2005

-

ORDER: -

Challenging the proceedings in CR No.A2/1083/2005 dated 21-07-2005 suspending the petitioner's T.F.T. toddy shop Licence No.97/2 dated 30-04-2002 situated at Budhera village, Medak District, as illegal and arbitrary, the writ petition is filed.

2. Heard learned Counsel appearing for the petitioner and learned Government Pleader for Prohibition and Excise.

3. The learned Counsel for the petitioner contended that the action of the respondent in suspending the petitioner's licence is in total violation of Section 31 (1) (e) of the Andhra Pradesh Excise Act, 1968
(for short 'the Act'), which provides that no licence or permit shall be cancelled or suspended unless the holder thereof is given an opportunity to make his representation against the action proposed; therefore the impugned proceedings is not preceded by any show cause notice calling for explanation.

4. On the other hand, learned Government Pleader for Prohibition and Excise appearing on behalf of the respondent contended that it is a case where public health is involved and *prima facie* the petitioner was found to have adulterated the toddy with Chloral Hydrate and no notice need be given. The respondent authority is empowered to test the toddy under Section 52 (c) of the Act. When the Excise Police conducted a spot test, it was found that the toddy was adulterated with Chloral Hydrate and therefore, they issued the impugned proceedings suspending the licence of the petitioner.

5. Section 31(1) (e) of the Act reads that if the conditions of the licence or permit provide for such cancellation or suspension at will, the holder thereof shall be given an opportunity of making representation against the action proposed. Giving an opportunity would come into play when the petitioner violates the conditions of the licence or permit. It is not a case of violation of the conditions of licence or permit, but it is a case where toddy had been adulterated with Chloral Hydrate, which is highly dangerous to consumers. Therefore, this Court is of the opinion that Section 31 (1) (e) of the Act has no application to the present facts of the case. Since, it is a case where public health is involved and on test
prima facie Chloral Hydrate was found in the toddy seized from the petitioner's shop, the respondent suspended his licence. Since the authority of the official who issued the impugned order, is not under challenge, I deem it appropriate to direct the respondent to complete the enquiry as early as possible.

6. With the above directions, the writ petition is disposed of at the stage of admission.

JUSTICE K. C. BHANU

Dt.19-09-2005

GLV